

REMARKS

Claims 9 – 29 are pending in this application. By this Amendment, claims 9, 16 and 23 are amended. Claims can be found, for example, in Figs. 16-19. No new matter is added.

ENTRY OF AMENDMENT AFTER FINAL REJECTION

Entry of the Amendment is requested under 37 C.F.R. § 1.116 because the Amendment: a) places the application in condition for allowance for the reasons discussed herein; b) does not present any additional claims without canceling the corresponding number of final rejected claims; and c) places the application in better form for appeal, if an appeal is necessary. Entry of the Amendment is thus respectfully requested.

PERSONAL INTERVIEW

Applicant appreciates the courtesies extended to Applicant's representative during the personal interview conducted on July 12, 2005.

During the interview, Applicant's representative argued that Mullican and Vin, individually or in combination, fail to disclose or suggest "a single segment drive shaft that transferred drive torque between said output and said differential", as recited in claims 9 and 16. However, the Examiner was unresponsive to our argument as the Examiner allegedly asserted that shaft 5 is a single segment drive shaft located between the gear box 2 (output) and differential gear 6 (differential unit). Applicant's representative then proposed further amendments to claims 9 and 16. The Examiner agreed that the proposed amendment may patentably be distinct over the applied references. As such, Applicant has amended independent claims 9, 16 and 23, as agreed during the interview.

With regard to the election and restriction requirement, Applicant argued that the subject matter recited in claims 13, 14, 20, 21 and 23-29 is described in the specification and shown in the figures. However, the Examiner was not responsive with respect to claims 13, 14, 20, 21, 27

and 28, but stated that if claim 23 was amended to clarify the language in the claim (e.g., perpendicular to horizontal), the Examiner agreed to rejoin claim 23 and its dependent claims 24-27 and 29. Accordingly, Applicant has amended claim 23 to more clearly recite the claimed invention.

Thus, Applicant respectfully submits that claims 9-12, 15-19, 23-26 and 29 are in condition for allowance.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

Claims 9, 10, 12, 15, 16, 17, 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mullican et al., (hereinafter “Mullican”) U.S. 5,887,880 in view of Vin, et al. (hereinafter “Vin”) U.S. 4,039, 037. This rejection is respectfully traversed.

Mullican and Vin, individually or in combination, fail to disclose or suggest, *inter alia*, the differential unit is located approximately near the rear of the vehicle, as recited in claims 9, 16 and 23.

The Examiner admits that Mullican fails to teach or suggest a single segment drive shaft that transfers drive torque between an output and a differential. Yet, the Examiner attempts to overcome the admitted deficiencies of Mullican by arguing that Vin teaches an output 3 connected to a gear drive transfer 6, 7 including a differential device, and having an input element, connected with a single segment drive shaft 5 between output 3 and the differential device.

However, the single segment drive shaft 5 of Vin is completely different from the claimed invention. In particular, Vin discloses the differential unit connected to the gear box 2 near the front end of the vehicle, rather than the differential unit located approximately near the rear of the vehicle.

Further, the Examiner alleges that it would have been obvious to one of ordinary skill in the art “to provide the drive scheme taught by Vin to the vehicle wheels of Mullican for the

purpose of providing a greater drive force”. However, Applicant submits that there is no motivation to combine the teachings of Vin with the teachings of Mullican with any expectation of success, at least because Mullican (related to suspension system vehicles used to haul cargo) is not directed to a power transfer device, whereas Vin is directed to a drive train for a vehicle. That is, one would have to substantially alter and/or destroy the structure of Mullican to employ the drive train of Vin. Thus, the Examiner has not identified any teachings or suggestion, where Mullican and/or Vin that will lead one skilled in the art to look to Vin in order to employ a drive scheme adapted to drive a plural set of rear wheels.

For at least these reasons, Applicant respectfully submits that the combination of Mullican and Vin do not disclose or suggest “a single segment drive shaft that transfers drive torque between set output and set differential, wherein the differential unit is located approximately near the rear of the vehicle”, as recited in claims 9 and 16.

Claims 10, 12, 15, 17, 19 and 22 which are dependent upon independent claims 9 or 16, are likewise allowable over Mullican and Vin at least for the reasons given above with respect to independent claims 9 and 16. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 11 and 18 are rejected are rejected under 35 U.S.C. 103(a) as being unpatentable over Mullian in view of Vin and Schwenk et al. (hereinafter “Schwenk”) U.S. 3,951,225. The rejection is respectfully traversed.

As discussed above, Mullican and Vin, individually or in combination, fail to disclose or suggest the claimed invention as found in independent claim 9 and 16, the independent claim from which the rejected claims depend.

Further, Mullican, Vin or Schwenk, individually or in combination fail to teach or suggest a differential being a half-shaft differential immovably supported by a frame and having opposed swing axles extended from said differential unit to said wheels, as recited in

claims 11 and 18.

The Examiner relies upon Schwenk for an alleged teaching of a half-shaft differential that movably supports the frame structure, and opposed swing axles extending from the differential unit. However, Schwenk does not cure the deficiency as set forth above because one of ordinary skill in the art would not have been motivated to combine the teachings of Mullican and Vin with the teachings of Schwenk without destroying one or more of the references. That is, Schwenk discloses that the carrier elements 16, 17 connected to drive shaft 35, 36 are welded to the ends of the transverse axle element (col. 2, line 51-55), which would lead one skilled in the art to substantially alter the structure of Schwenk to combine the structure of Mullican and Vin. Thus, the Examiner has not adequately supported the selection and combination of Mullican, Vin and Schwenk to render obvious that which Applicant has claimed. The Examiner's conclusory statement that it would have been obvious to provide "a single drive axle system as taught by Schwenk, in place of the drive axle scheme taught by the modifying reference to Vin, using a differential and a pair of swing axles instead, for the purpose of reducing the number of moving parts between the front and rear of the vehicle" does not adequately address the issue of motivation to combine. This factual question of motivation is material to patentability and cannot be resolved on subjective belief and unknown authority. Simply stating that the motivation for combining Mullican, Vin and Schwenk is "for the purpose of reducing the number of moving parts" is an insufficient explanation for the alleged combination.

Thus, it is respectfully requested that the rejection be withdrawn.

For at least these reasons, Applicant respectfully submits that Mullican, Vin and Schwenk, individually or in combination, fail to disclose or render obvious the features recited in independent claims 9, 16 and 23. Claims 10-15, 17-22 and 24-29, which depend from the independent claims are likewise distinguished over the applied art for at least the

reasons discussed as well as for the additional features they recite. Reconsideration and withdrawal of the rejections are respectfully requested.

CONCLUSION

In view of the above amendments and remarks, reconsideration of the rejections and allowance of claims 9-29 is respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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